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BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

RONALD L. MANN, Ph.D.
16070 Sunset Boulevard, Suite 105
Pacific Palisades, CA 90272

Psychologist's License No. PSY 4625,

Respondent.

Case No. W-183

OAH No. N2000070485

DECISION AFTER NON-ADOPTION

This matter came on regularly for hearing before Jaime René Román, Administrative Law Judge, Medical Quality Hearing Panel, Office of Administrative Hearings, in Sacramento, California, on February 26 – 28, 2001 and April 5, 2001.

Complainant Thomas S. O'Connor was represented by Lynne K. Dombrowski, Deputy Attorney General, Health Quality Enforcement Section, Department of Justice, State of California.

Respondent Ronald L. Mann, Ph.D., appeared and was represented by Robert B. Zaro, Esq.

Evidence having been received,¹ the matter was submitted, following argument, on April 5, 2001.

On April 12, 2001, the Administrative Law Judge issued his proposed decision on the matter, proposing to dismiss the accusation. On May 10, 2001, the Board of Psychology, through its Executive Officer, issued a Notice of Non-adoption of Proposed Decision.

The parties were given an opportunity to present written and oral arguments to the Board of Psychology. On July 27, 2001, respondent's counsel submitted Respondent's Opposition to Non-Adoption, and on July 30, 2001, the Deputy Attorney General submitted

¹ A motion in limine, having been granted, limited Complainant's effort to produce evidence outside the Accusation. See *Fuentes v. Taylor* (1947) 31 Cal.2d, 1, 7.

Argument in Support of Non-Adoption of Proposed Decision and Reconsideration of Penalty.

At the Board of Psychology's regularly scheduled public meeting on August 17, 2001, respondent Ronald L. Mann, Ph.D., and his counsel, Robert B. Zaro, and Deputy Attorney General, Lynne K. Dombrowski, appeared before the board to present oral argument. After careful consideration of all the evidence, including the transcript of the hearing, the written and oral argument submitted by the respondent, his counsel, and the Deputy Attorney General, the Board of Psychology renders its decision.

ISSUES PRESENTED

1. Whether respondent violated any rule of professional conduct promulgated by the Board of Psychology and set forth in regulations.
2. Whether respondent engaged in gross negligence in the practice of his profession.
3. Whether respondent engaged in repeated acts of negligence in the practice of his profession.
4. Whether respondent is liable for investigative and prosecution costs.
5. Whether the Accusation:
 - A. States acts or omissions upon which the Board of Psychology may proceed.²
 - B. Is so indefinite or uncertain that respondent cannot identify the transaction or prepare his defense.³
6. Whether the Accusation and its causes of action are barred by:
 - A. Laches.⁴

² Respondent submits, inter alia, the Accusation must be dismissed as a matter of law inasmuch as the reference to Business and Professions Code §2960(r) [repeated acts of negligence] was not legislatively extant at the time of the commission of the conduct alleged in the Accusation. Respondent's contention, treated as a demurrer, is denied. Business and Professions Code §2960(r) was enacted as urgency legislation and effective on March 30, 1994. Cf. *Cooper v. Board of Medical Examiners* (1975) 49 Cal.App.3d 931.

³ Lacking evidence or competent showing to the contrary and observing the clarity with which the Accusation sets forth the purportedly errant conduct incident to the Psychology Licensing Law, this affirmative defense (set forth in respondent's Notice of Defense pursuant to Government Code §11506(a)) is summarily dismissed by this tribunal. *Cooper, supra*.

⁴ This affirmative defense, lacking evidence, is dismissed. *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 800, 816; *Green v. Board of Dental Examiners* (1996) 47 Cal.App.4th 786, 792.

- B. The statute of limitations set forth in Code of Civil Procedure §338(a).⁵

FACTUAL FINDINGS

1. Complainant Thomas S. O'Connor filed the Accusation against respondent solely in his official capacity as the Executive Officer of the Board of Psychology ("the Board"), State of California.
2. On June 30, 1976, the Board issued Psychologist's License No. PSY 4625 to respondent. Said license is in full force and effect.
3. On October 7, 1993, J.L., having marital problems with her then-husband, presented at respondent's professional office.
 - A. Taking a patient history and listening to J.L.'s issues, respondent suggested that they meet for one hour twice a week. J.L. concurred.
 - B. In January, believing that J.L. would benefit from more intensive psychotherapy, respondent suggested that their sessions expand to two hours once a week. J.L. concurred and the one-hour sessions rose to two-hour sessions on January 21, 1994.
 - C. Clinically opining that J.L. had developed or was developing an attraction to him, respondent, at their session on January 28, 1994, explored that issue by querying J.L. J.L., initially resistant and seeking to elicit respondent's feelings for her, attempted to skirt the issue but finally acknowledged to respondent that she had an attraction to him.⁶ J.L. commented at the hearing that the session ended with respondent remaining in his chair looking pensive instead of his escorting her from the room as in prior sessions.
 - D. At the following session on February 4, 1994, respondent, appropriately, addressed the issue of J.L.'s attraction. The two spent some time discussing J.L.'s attraction for respondent.⁷

⁵ This affirmative defense, lacking evidence, is dismissed. *Lam v. Bureau of Security & Investigative Services* (1995) 34 Cal.App.4th 29.

⁶ J.L. recalls that her inner voice, in reaction to the query, was, "You don't have permission to ask me that." However, her outer voice responded, "I can't say that I haven't been." Despite such espouse recollection, subsequent conduct by J.L. belies her subsequently expressed recall.

⁷ J.L. commented that respondent did not use the term "transference" in their discussion. While the word and concept are recognized by mental health professionals, this tribunal, absent competent evidence, is reluctant to unilaterally impose a professional obligation on Board licensees that compels the usage of that term in psychotherapist - patient discussions. What is clear is respondent's recognition and attention to his former patient's

- (1) J.L.'s recollection was that respondent found the issue difficult to talk about; however, he commented that the two could not date for two years because of a law.⁸ J.L. further relates that respondent commented that if it weren't for the law we would go out—that he could “pretty much guarantee it.” She does not recall any discussion by respondent of transference.⁹
- (2) Respondent's recollection was that J.L. found the issue difficult to talk about; that she queried respondent with the question, “Would you ever consider going out with me?” To which he responded non-committally that had they not met in therapy, but in another setting, he possibly would have gone out with her.¹⁰ Regardless, he discussed the existence of a two-year prohibition and believed he made it very clear that there could not be a personal relationship.

Unbeknownst to respondent, J.L.'s response to his comments about the possibility of “going out” was interpreted by her as a glimmer of hope that he found her attractive and would, reciprocally, pursue a dating or more familiar relationship but for a two-year legal prohibition that could expose him to civil liability.

E. On February 11, 1994, J.L. returned for a further psychotherapeutic session and, during the course of the session, stated that she had decided to leave her husband and cease therapy.

- (1) She further relates stating to respondent that she wanted to start the two-year period and wait for respondent. She claims he did not discuss any referral to another psychotherapist but, instead, made a repeated reference that she could potentially sue him. She further relates that respondent did not appear to care what his peers thought; however, he remained very non-committal about what would occur after the two years had elapsed.

feelings.

⁸ Respondent testified he was unaware of where such law existed. At that time, Civil Code §43.93(b)(2) provided that “A cause of action against a psychotherapist for sexual contact exists for a patient or former patient for injury caused by sexual contact with the psychotherapist, if the sexual contact occurred... within two years following termination of therapy.” The evidence also disclosed that the American Psychological Association Code of Ethics, as adopted in 1992, also prohibited sex with a patient for a period of two years after termination of therapy.

⁹ J.L. relates that she felt very strongly attracted to respondent. She likens her attraction to something akin to a past life connection—stronger than anything she, then 28 years old, had ever felt. She acknowledges feeling badly about their inability to date.

¹⁰ Respondent distinguishes “going out” as a social activity distinct from “dating.”

- (2) Respondent recalls J.L. arriving on February 11, 1994, and appearing to have diminished anxiety and depression, and claiming to have gained the benefits of the therapy, related that she had determined to end her marriage and cease further therapy. Some discussion about the expressed prior attraction occurred but at no time did he indicate the possibility of any kind of a relationship within or beyond the two-year period with J.L.¹¹ Clinically, respondent concurred with J.L.'s decision to terminate psychotherapy and observed no further reason to suggest continuing therapy.

Except for a singular instance during a psychotherapeutic session wherein J.L. commented that she was fat, to which respondent incredulously responded, "Where?";¹² it is clearly acknowledged that at no time during any psychotherapeutic session did respondent ever make any particular or inappropriate reference to J.L.'s anatomy. It is further established that respondent never engaged in any sexual impropriety with J.L. during any psychotherapeutic setting.

4. Following their last session on February 11, 1994, respondent undertook no effort to contact J.L.

5. On March 26, 1994, J.L. wrote a letter to respondent as follows:

"Dear Ron,

I wanted to let you know that the way you dealt with the issue of not becoming personally involved with me really hurt me. I think I've given myself ample time to heal, but I am still carrying the pain with me. One of the subjects that you and I addressed in therapy was my reluctance to confront issues with men. In that regard, I guess this letter is a product of your success as a therapist, so if you'll grant me a few moments of your time to read this, I would appreciate it. I'll apologize right off the bat for feeling the need to write this letter. I guess I have to attribute my emotions to my high level of sensitivity, or my gender, or perhaps a combination thereof.

What is bothering me so intently is that I feel very misjudged and misunderstood. During our last two sessions, you expounded on the ideal of not wanting to lose your license—of not wanting to have to find a new occupation—as your reason for not wanting any personal involvement with me. I do understand the concept of self-preservation, and I

¹¹ Respondent acknowledges finding solace in the application of a two-year rule precluding a relationship and sought to employ that prohibition. The two-year limitation was based upon his fear of being sued. Respondent, in 1994, claims he was not wholly aware of any established standard of care or rule of professional conduct applicable to a former patient seeking a relationship with her therapist.

¹² This singular query by respondent is not found inappropriate and only referenced to demonstrate the extent to which he ever commented about J.L.'s figure during a psychotherapeutic setting.

agree with it wholeheartedly, objectively. I really empathize with health care providers¹³ and the tenuous line they must walk in our society. But when you stated this (that you could lose your license – that I could sue you) during our second to last session, and then repeated and reinforced it during our last meeting, what you inferred was an action that would have had to have been perpetrated by me. Not just any female, but me. That's when you hit me on a subjective level. That's where I cannot seem to make sense of this issue.

I didn't perceive that you think that dating a former patient is ethically wrong, nor that you wouldn't have been interested in me otherwise, but rather, I perceived that the concept that 'I might sue you' was the sole motivating factor for your comments. To clarify, if you would have told me that you don't think that (dating a former patient) is right, ethically, or that brunettes nauseate you, I could have made sense of these two notions. The first (if you thought it was wrong for internal reasons) would have been a reflection of you. The second (if I repulsed you) would have hit me on an ego level, but at least I would have been able to understand it. But what I heard from you was that "I could sue you." Even after I took exception to this, you still reiterated it. May I ask, how did you expect me to deal with this surprising revelation about myself from a man whom I admire and respect? The issue, to me, is not that I could not intentionally harm you specifically, but rather that I have no fundamental inclination or capacity to wreak that kind of havoc on anyone. I am by no means attempting to say that I am perfect; I have faults as we all do, but this just happens to be one of my strong points – and I'm very thankful for that. This is my sense of ethics, my compassion toward others, my sense of self-responsibility for my actions, my Tao.

I've asked myself why it is so important to me that I convey to you how I feel. I get no answer other than that I just want to be understood. From what you said, I feel as though you lumped me into the same slimy category as the woman who annihilated the career of your colleague, without bothering to examine me (not to change the end result, just to realize that I am a completely different woman than this subterranean creature). There is one sentence that you said in reference to the analogy of this woman; you said, in one breath, "She decided to go back to school to get her MFCC and decided that he had done her some harm." That still rings in my head. I see the educational similarity here. I was very open with you regarding my concern over a potential financial struggle through the remainder of my educational process. I have often wondered if you thought that I would have been able to ruin your career so that I could slither through school more easily if need be. This is what I feel that you were telling me. This feeling is what hurts me the most. I'm sorry if I am being too hard on you, but despite my objective understanding, my subjectivity seems to beckon to me rather loudly. I am trying to find a lesson in this, but, thus far without success. I have asked myself if I misunderstood you; your words and symbols seemed so clear, though.

Please excuse my wordiness, but this has been difficult to articulate. I hope this correspondence has not been ill-received. It is not my intention to elicit any response from you, only to convey my sense of what transpired. After I mail this, I will more than likely feel like a heel for not having been more sensitive to your plight in this matter. Come to think of it, if your postman gets mugged by a curvy masked bandit, it probably will have been me attempting to re-acquire this letter before you receive it. In any case, thank you for

¹³ J.L.'s former husband is a chiropractor.

reading the foregoing. I hope that you are weathering this transitional period in your life well, and that you are finding your work to be rewarding. Take care."

6. Respondent, upon receiving the letter and observing J.L.'s consternation, became dutifully and professionally concerned. He telephoned J.L. and asked her to come to his office to address the issues raised in her letter. She agreed and they subsequently met in his office. The two had what respondent viewed as a friendly and understanding chat. Respondent, having observed that J.L.'s attraction lacked any personal knowledge of respondent outside the psychotherapeutic environment, discussed particularly personal aspects of his life involving such things as golf, school, and church. Noting that J.L. had previously sought a closer spiritual union with the divine, he suggested the Self-Realization Fellowship, a church (admittedly it was also a church respondent attended).

- A. J.L., throughout this session, noted that respondent remained non-committal with respect to the development of any non-psychotherapeutic relationship between them.
- B. Respondent, seeking to avoid causing particular harm to J.L. relative to her self-esteem, communicated his personal social non-availability.

This session ended on what each, for different reasons, perceived as positive. For respondent, he perceived that he had cleared up her "hurt" feelings and reinforced that there would be no interpersonal relationship outside the therapeutic environment; for J.L., she, in contrast, perceived that, but for the legal prohibition, there would be a relationship.¹⁴

7. In April 1994, J.L. began attending the church services suggested by respondent. Respondent, seeing her, sought to welcome her and was elated that she appeared to be gaining some spiritual discernment and benefit from her participation. Except as the two encountered each other in ecclesial activities, respondent made no effort or overtures toward a relationship with J.L.

8. In late May 1994, J.L., without the knowledge or consent of respondent, made an appointment with an attorney and discussed whether she could properly execute a legal document that would function to waive any cause of action she might have against respondent were she to engage in a relationship with him. Learning from the attorney that such a document would not be legally viable, she subsequently spoke with respondent in June 1994 and related what she had done and the advice she had been given. He listened and while somewhat disconcerted by her action, was not surprised with the attorney's counsel.

9. Although the two had continuing periodic contact incident to ecclesial activities and, occasionally a reference would be made to the two-year limitation, respondent remained steadfast in avoiding any social interaction with J.L. until August 1994.

¹⁴ What is particularly evident is that the exposure to civil liability was an espoused deterrent to the relationship by respondent; not, as noted by J.L., any professional or personal ethical considerations.

- A. J.L., intent on attending a Church Convocation, flew to Los Angeles by commercial airline and arrived early. She encountered significant back pain and seeking chiropractic relief was referred to another hotel, the Bonaventure. Arriving at the Bonaventure, she observed respondent standing in line waiting to check-in.
- B. Respondent, having always attended his Church Convocations for many years,¹⁵ had arrived by auto. While standing in line at the Bonaventure Hotel to check-in, he saw J.L. in evident pain. She approached him.
- C. Relating her back pain and need for chiropractic relief, respondent suggested that he might be able to palliate her pain with energetic healing.¹⁶ She agreed. Deciding between his room or hers, he suggested her room. Checking-in to his hotel room, the two walked to her hotel. Enroute, J.L. suggested a chiropractic technique that had worked in the past and that respondent might employ; however, it would require that her clothing be removed to, at least, her underwear. Respondent, mindful that J.L.'s estranged husband was a chiropractor and perceiving the chiropractic procedure to be relatively facile, concurred.
- D. Arriving at J.L.'s room, respondent removed her clothing to her underwear. Respondent acknowledging at the hearing that J.L. is a physically attractive woman, admits that a sexual energy was evident. He nevertheless attempted to employ the modalities to assist her and left.
- E. Over the course of the next few days, the couple spent significant time together attending meetings and, in the evenings, engaging in mutually consensual sexual contact¹⁷ that did not, however, include sexual intercourse. Respondent readily acknowledges that sexual intercourse, for him, was the line he could not cross without exposing himself to a legal claim by J.L.
- F. On the last day of the convocation, J.L. still had pain. Aware of the amount of luggage she had and the help she might require, respondent

¹⁵ Respondent acknowledges a deep devotion to his church, its tenets, and its activities. He is proudly and actively involved in administrative, pastoral, and church services. He admits occasionally, and without proselytizing in the therapeutic environment, suggesting the church, as an option, for those interested in meditation or a deeper spiritual awareness. It is in that context that he suggested the Self-Realization Fellowship to J.L.

¹⁶ Respondent, a Director to the Institute of Alternative Healing, has occasionally employed this modality that seeks to employ electromagnetic energy from one human to another. It does not require the removal of clothing.

¹⁷ J.L. claims that the sexual contact included mutual masturbation. Respondent, claiming he would recall if such occurred, claims he has no recollection of such conduct. Regardless, both acknowledge contact that was sexually interactive in its hugging, kissing, and petting.

offered to give her a ride home. J.L. agreed and did not embark on her flight back to Sacramento.¹⁸

- G. Arriving at her home sometime in the evening, respondent removed J.L.'s luggage from his vehicle and into her residence. Finding themselves in her bedroom, the two approached, mutually embraced, and engaged in mutually consensual sexual intercourse.

10. For several months thereafter, respondent's attentions to J.L. vacillated between hot and cold. Respondent, clearly aware of his potential legal exposure and personally disappointed in himself, acknowledged at the hearing that his feelings for J.L. vacillated and that she clearly observed his "hot and cold" responses. Respondent was particularly concerned with both the speed with which their relationship had become sexualized, with J.L.'s continuing sexualization of their contacts, and with his clear exposure to civil liability. Although some intimacy occurred between the two in the following months, respondent refrained from further sexual intercourse with J.L. during the two-year period following termination of the psychotherapeutic relationship.

- A. It is readily apparent that respondent repeatedly sought, during this intervening period, to terminate the relationship and, at the very least, have a friendship; however, J.L. was not readily disposed to terminate the relationship.

- B. On November 29, 1995, respondent wrote a letter to J.L. wherein he stated:

"Hi Julie,

I thought I should write this because somehow putting it on paper makes it a clearer statement into the ether.

I have been talking to a number of colleagues about the situation and all responses are the same. I even spoke to someone who was engaged to an x patient [sic]. I have come to believe that the right thing to do is to keep our friendship and not become more involved. It is easier to see clearly when I am not in your presence. My personal needs and desires become too stirred up because I feel pretty unfulfilled [sic] as you know. I do think that this is the right thing to do. I hope you see it that way someday as well.

I hope we can maintain a friendship in some form. You are such a sweet and wonderful person with so much to offer. You deserve the best and to be with someone who is free to give fully to you. I wish you the greatest

¹⁸ J.L. notes that during the ride from Los Angeles to Sacramento, a sexual energy was extant in the vehicle.

fulfillment in your life and many blessings of love. I think the only way we can both get on with our lives is to deal with the loss over this situation and move on. Hopefully over the next week off I can do much of this."

- C. J.L. relates that upon receiving this letter from respondent she became depressed and sought psychotherapy. Consulting a female psychologist (who knew respondent), J.L. mentioned their relationship. Subsequently advising respondent of this consult, he became disconcerted. She ceased further therapy because of what she attributes as his disapproval.

11. On September 3, 1997, J.L. complained to the Board claiming, in pertinent part, "I began therapy with Dr. Mann in October 1993 and was seen twice per week. At the time, I was in a difficult marriage. During the therapy, we talked about being attracted to each other. He advised me that we would have to wait two years to have sex. Dr. Mann stopped billing me as of February 11, 1994 but continued to see me in various locations. We had sexual contact within the two year period, and resumed having sexual relations during 1996. Since April 1997, I have been in therapy with a licensed psychologist and have recently begun to realize the extreme inappropriateness of Dr. Mann's conduct and the injury that his actions have caused me. I don't want any other woman to have to go through the pain and anguish that I have endured. I am taking this action in hope that similar injury to other patients may be prevented."

12. As a consequence of J.L.'s allegations, the Board undertook an investigation. Board Investigator Martin Machado observed, in his report, that J.L. pursued respondent.¹⁹ Nevertheless, the substance of Complainant's case lies on the expert evidence provided by Jo Gilbert, Ph.D., who related that respondent engaged in professional misconduct by:

- A. Failing to properly terminate the psychotherapeutic relationship in February 1994.
- B. Initiating sexual contact²⁰ within two years from the termination of the psychotherapeutic relationship.²¹

¹⁹ While clearly a conclusion, it is one not binding on this tribunal absent other cogent and competent evidence. Government Code §11513(d).

²⁰ Dr. Gilbert, during the hearing, modified the characterization of respondent from "initiating" to "participating" in sexual contact. Accordingly, Dr. Gilbert opines that respondent's "decision to [participate in] a sexual relationship, with a former patient, less than two-years posttermination [sic] constitutes an extreme departure from the standard of care."

²¹ In support of her determination, Dr. Gilbert relies on three references, the ASPBB Code of Conduct, May 1991; APA [American Psychological Association] Ethical Principles of Psychologists and Code of Conduct, December 1992; and the Psychology Licensing Law and regulations thereunder, as codified. In 1993 - 1994, only the Psychology Licensing Law and regulations thereunder were properly codified references. The Board had not adopted in regulation either the referenced ASPBB Code of Conduct or APA Ethical Principles of Psychologists and Code of Conduct.

Dr. Gilbert noted that respondent was alleged to have "sexualized the therapy by making his own needs primary, to her [J.L.'s] detriment; and that he was incompetent in the conduct of her treatment in that (a) he did not discourage her from terminating therapy for the primary purpose of waiting two years to begin a romantic relationship with him, and (b) did not provide her with referrals for continuing psychological services." To her credit, Dr. Gilbert admits accepting as true, for purposes of her expert opinions, the allegations set forth in the materials provided to her by the Board's investigator which lacked, however, input from respondent except via some correspondence and patient record entries.

13. Respondent claims that:

- A. Deferring to patient autonomy, seeking to avoid patient infantilization, and wholly unaware of J.L.'s intent to pursue a social relationship following the termination of the psychotherapeutic relationship, he terminated the psychotherapeutic relationship and, lacking any psychotherapeutic basis, deferred making any psychotherapeutic referral.
- B. In 1994, other than vague anecdotal references, he was unaware of any particular standard of care relating to sexual contact with former patients.
- C. On the one hand, respondent contends that in 1994, he was unaware of any particular statutory or regulatory prohibition by the Board of Psychology relating to sexual contact with former patients.²² However, respondent testified that he was a member of the American Psychological Association from approximately 1976 to 1999. More importantly, he testified that he was a member of the California Psychological Association, and on the executive board of the local chapter, the Sacramento Valley Psychological Association, and had heard anecdotal stories during that period of psychologists having administrative disciplinary action taken against their licenses by the Board of Psychology for engaging in sex with former patients. Respondent is not credible in his professed unawareness of the legal prohibition.
- D. While he admittedly engaged in sexual contact with J.L., he never used nor employed the therapeutic environment to solicit or elicit any sexual response from J.L., nor did he terminate the psychotherapeutic

²² Respondent, supported by the experts testifying herein, submits that in the early '90's, and certainly at the time of the sexual conduct between himself and J.L., there was continuing debate within the profession of psychology concerning the propriety of engaging in sexual conduct with a former patient. Respondent contends that while the APA had an ethical guideline proscribing such conduct within a two-year period, it was not binding on practitioners except with regard to their APA membership. The Board of Psychology contends that such ethical guidelines constituted a standard of care for the profession. Further, the ASPBB had a similar provision proscribing such conduct, however the Board of Psychology never adopted by formal regulation that provision for application to its licentiates.

relationship to engage in any sexual contact with J.L. He repeatedly sought to avoid any sexual contact with J.L.

14. Factors concerning the credibility of evidence are contained, in part, at Evidence Code §§412, 780, 786, 790 and 791. When applied to the evidence herein, the Board of Psychology concludes, on balance, that:

- A. J.L. did not state to respondent, despite her testimony, that the two-year period commenced on February 11, 1994. - The subsequent correspondence sent to respondent by J.L. belies any reference to the commencement of a two-year period in which the respondent and J.L. would either subsequently engage in a relationship or in sexual contact. Rather, the correspondence underscores what respondent testified; namely, that he was not available (although primarily attributed to the two-year limitation).²³ Further, J.L.'s correspondence indicates the gains made by her psychotherapy with respondent and further establishes respondent's perception on February 11, 1994, that J.L., representing herself as having benefited from the therapy sessions, had no interest in further pursuing psychotherapy. Against the backdrop of such evidence, it cannot be found that respondent departed from the standard of care in the patient's election to terminate therapy and respondent's portended failure to suggest either that she continue therapy or be referred to a psychotherapist without either infantilizing J.L. or impinging on patient autonomy.
- B. Respondent engaged in sexual conduct within two years from the termination of psychotherapy with J.L.
- C. Respondent's understanding of the distinction between civil liability and standard of care were, in 1994, not as wanting as he claims in this proceeding. While respondent portends to some ignorance of the then extant (i.e., 1994) APA proscriptions relating to sexual contact involving a former patient; it is particularly clear that his conduct as a psychotherapeutic professional did not rest on professional ethical considerations but, instead, legal considerations. The relatively contemporaneous letter of J.L. notes: "But when you stated this (that you could lose your license²⁴ - that I could sue you) during our second to

²³ As J.L. notes, respondent was particularly concerned with a legal proscription and less with any proscription related to professional ethical principles.

²⁴ It is clear that respondent fully comprehended the licensure restrictions relating to sexual contact with a patient. It is equally clear that any professional prohibition relating to sexual contact with a former patient was primarily based on his fear of being sued. As noted in paragraph 13(C), however, during his tenure as a member of the executive board of the Sacramento Valley Psychological Association in 1993 - 1994, respondent was aware of anecdotal stories of psychologists being subjected to administrative discipline by the Board of Psychology for engaging in sex with former patients.

last session, and then repeated and reinforced it during our last meeting, what you inferred was an action that would have had to have been perpetrated by me. Not just any female, but me. That's when you hit me on a subjective level. That's where I cannot seem to make sense of this issue. I didn't perceive that you think that dating a former patient is ethically wrong, nor that you wouldn't have been interested in me otherwise, but rather, I perceived that the concept that 'I might sue you' was the sole motivating factor for your comments."

- D. Respondent, not intent on perpetuating a relationship with J.L., clearly possessed no particularly sincere amorous feelings for J.L. The allegation that he engaged in professional misconduct by sharing his own feelings is not established by any competent evidence; simply put, he had no feelings to share. While J.L. perceived a possibility of a long-lasting relationship—respondent did not. Indeed, only in the context of a hypothetical in response to a patient query did the matter of a mutual possibility of relationship occur; however, respondent, to his credit, never in the psychotherapeutic relationship suggested the possibility of a sexual relationship with J.L. It is apparent that J.L. avidly sought a sexual relationship with respondent, even to the extent of suggesting a chiropractic manipulation compelling the removal of her clothing.²⁵ Accordingly, it is not competently or credibly established that respondent terminated the psychotherapeutic relationship existing between J.L. and himself to embark upon a sexual relationship.²⁶ Therefore, given the circumstances by which J.L. terminated the relationship, respondent, in keeping with the standard of care competently testified by Martin Howard Williams, Ph.D., was under no obligation to assist J.L. in obtaining further psychological services.

15. Allegations in the Accusation not expressly found to be true are not established.

Circumstances in Mitigation

16. Respondent, employed and practicing as a psychologist for over two decades, has no prior Board disciplinary record.

17. Respondent, clearly devoted to his profession, has made significant contributions to the advancement of the profession of psychology by devising tests, developing continuing education training, and actively advancing modalities for patient diagnosis.

²⁵ This is not to suggest that respondent is without culpability; however, it underscores the initiation by J.L.—not respondent.

²⁶ See *Haley v. Medical Disciplinary Bd.* (1991) 117 Wash.2d 720.

18. Respondent is clearly humiliated by his participation in sexual contact with J.L.²⁷ He demonstrates evident remorse and embarrassment for his failure to refrain from conduct he acknowledges, by extant standards, would be clear violations of the Psychology Licensing Law.

19. Respondent possesses the extant skill, training, experience and knowledge to practice psychology with due regard to patients.

Circumstances in Aggravation

20. Respondent, a member of the APA during a period which included 1993 – 1994, despite his contribution to the science and art of psychotherapy, demonstrates a clear lack of comprehension of the laws and regulations relative to the practice of psychotherapy. This lack of comprehension is further aggravated by respondent's position during 1993 – 1994 as a member of the executive board of the Sacramento Valley Psychological Association.

Costs Findings

21. The Board has incurred reasonable costs of \$14,675.68 in the investigation, prosecution, and enforcement of this matter.

LEGAL CONCLUSIONS

1. It is not enough to a determination of culpability within the ambit of the Psychology Licensing Law that a psychologist has erred. The very issuance of a psychology license does not warrant infallibility or perfection in the practice of psychology. Culpability for disciplinary purposes compels close scrutiny of the facts and law governing the particular case.

Despite their best efforts, psychologists will, in the span and amid the travail of clinical practice, err.

“‘Gross negligence’ consists of a lack of even scant care or an extreme departure from the ordinary standard of conduct.”²⁸ The duty of a psychologist in caring for a patient is generally governed by standards of conduct of psychologists similarly situated.²⁹

In the profession of psychology, standards “develop in a complicated way involving the interaction of leaders of the profession, professional journals and meetings, and networks of colleagues. Neither the Food and Drug Administration, the National Institute of Health, the Department of Health and Human Services, nor state licensing boards have had much to do with shaping” the practice of psychology. “Most clinical policies derive from a flow of reports in the literature, at meetings, and in peer discussions. Over a period of time, hundreds of

²⁷ J.L. was present during the course of this administrative proceeding.

²⁸ *Atienza v. Taub* (1987) 194 Cal.App.3d 388, 391. “The standard of care against which the acts of a physician are to be measured is a matter peculiarly within the knowledge of experts.” *Sinz v. Owens* (1949) 33 Cal.2d 749, 753.

separate comments come together to form a clinical policy. If this becomes generally accepted, we . . . call it 'standard practice.'"³⁰

Although "constitutional considerations require that a statute 'bar a person from practicing a lawful profession only for reasons related to his fitness or competence to practice that profession....Consensual sexual activity...has been found a legitimate basis for discipline when the sexual activity occurred under guise of treatment, as part of a physical examination, during psychiatric treatment or in exchange for drugs.'" In California, the "cases have primarily involved psychotherapists who engaged in sexual activity with a patient during treatment."³¹ That having been said, culpability as it relates to respondent for "being grossly negligent in the practice of his profession"³² may only result if the standard of practice, as existing in 1994, was violated by his conduct with J.L.

It is evident that with respect to the manner in which respondent terminated the psychotherapeutic relationship between himself and J.L., he did not violate the standard of practice; accordingly, cause does not exist to revoke or suspend the license of respondent for gross negligence pursuant to Business and Professions Code §2960(j) as set forth in Findings 2 - 14. On the other hand, further inquiry as to whether respondent was otherwise grossly negligent in the practice of his profession does not end with this determination. At issue is whether respondent engaged in an extreme departure from the standard of care (i.e., gross negligence) in the practice of his profession by engaging in sexual contact with J.L. Notably, and as strenuously argued by respondent, "the Legislature has drawn a distinction between patients and former patients for purposes of licensure discipline."³³ The Board of Psychology finds that the Legislature has drawn such a distinction for purposes of discipline under the language of former subdivision (o) of Business and Professions Code section 2960, but has not precluded disciplinary action under subdivision (j) of that section, relating to, gross negligence in the practice of the profession. *Poliak v. Board of Psychology* is wholly distinguishable from the present case, in that the conduct in *Poliak* occurred in 1990, two years prior to the adoption of the APA Ethics Code prohibiting engaging in sex with a patient within two years after termination of therapy. Further, *Poliak* was charged with a violation of Business and Professions Code section 2960(o), and the provisions of subdivision (j) of section 2960 were not before the *Poliak* court, and therefore, not discussed.

Although California's practitioners of psychology in 1993 and 1994 lacked a codified rule of professional conduct proscribing sexual contact with a former patient, the APA had promulgated in December 1992, Ethical Principle 4.07(a) which stated, "Psychologists do not

²⁹ See generally Eddy, *Clinical Policies and the Quality of Clinical Practice*, 307 N.Eng.J.Med. 343 (1982). Furrow, et al., *Liability and Quality Issues in Health Care*, p. 36 (1991).

³⁰ *Gromis v. Medical Board* (1992) 8 Cal.App.4th 589, 594 - 595.

³¹ Business and Professions Code §2960(j).

³² *Poliak v. Board of Psychology* (1997) 55 Cal.App.4th 342, 361.

engage in sexual intimacies with a former therapy patient or client for at least two years after cessation or termination of professional services.” It is readily acknowledged, however, that the Board of Psychology had not adopted the APA’s promulgated standards as a regulation.³⁴ That having been said, it is fundamental that a standard of practice is not dependent on a licensing board for effectuation.

In 1994 (vis-à-vis 2001), the evidence provided indicates there was continuing debate over whether sexual contact with a former patient was prohibited. Indeed, both experts who testified at the hearing testified the nature of the psychology profession is such that discussion and debate continues with respect to many issues. However, both experts testified that the American Psychological Association had adopted its Ethical Principles of Psychologists and Code of Conduct in 1992, which code prohibited sex with former patients for a period of two years after termination of therapy. Such code clearly established a standard of care that was in existence in 1994, the time period when respondent engaged in sex with his former patient.

Further, the Board of Psychology finds that the Legislature established a standard of conduct for psychologists with respect to former patients when it enacted section 43.93(b)(2) of the Civil Code. The evidence clearly established that such section was in existence in 1994. It makes no legal or logical sense to conclude that engaging in sex with a former patient within two years after the termination of therapy gives rise to civil liability, but can have no effect whatsoever upon the license of the psychologist. The Board of Psychology finds that a violation of the prohibition in Civil Code section 43.93(b)(2) constitutes grounds for disciplinary action under Business and Professions Code section 2960(j), gross negligence within the practice of psychology.

The board finds that cause exists to suspend or revoke the license of respondent for gross negligence pursuant to Business and Professions Code section 2960(j), in conjunction with Title 16, California Code of Regulations, section 1396.1, and as set forth in Findings 2-14.

2. Cause does not exist to revoke or suspend the psychology license of respondent for repeated acts of negligence pursuant to Business and Professions Code §2960(r) and as set forth in Findings 2 – 14.

3. Cause does not exist to revoke or suspend the psychology license of respondent for violation of a rule of professional conduct pursuant to Business and Professions Code §2960(i), in conjunction with Title 16, California Code of Regulations, §1396.1, and as set forth in Findings 2 – 14.

4. Cause does not exist to order respondent to pay \$14,675.68 as and for the reasonable costs of investigation, prosecution, and enforcement of this matter pursuant to the provisions of Business and Professions Code §125.3 and as set forth in Legal Conclusions 1 – 3, and each of them, and Finding 21. Under section 125.3, the Board of Psychology is without

³³ See Business and Professions Code §2930.

authority to impose costs in a decision after non-adoption, if the administrative law judge has not awarded costs in his proposed decision.

ORDER

Psychologist's License No. 4625, issued respondent Ronald L. Mann, Ph.D.,
Psychologist's License No. 4625, is hereby revoked, but the revocation is stayed and
respondent is placed on probation for a period of five (5) years under the following terms and
conditions:

1. **Practice Monitor**

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a practice monitor. The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2) have no prior business, professional, personal or other relationship with respondent; and 3) not be the same person as respondent's therapist. The monitor's education and experience shall be in the same field of practice as that of the respondent.

Once approved, the monitor shall submit to the Board or its designee a plan by which respondent's practice shall be monitored. Monitoring shall consist of a least one hour per week of individual face to face meetings and shall continue during the entire probationary period. The respondent shall provide the monitor with a copy of this Decision and access to respondent's fiscal and/or patient records. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to divulge any information that the Board may request. It shall be respondent's responsibility to assure that the monitor submits written reports to the Board or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of respondent's performance.

Respondent shall notify all current and potential patients of any term or condition of probation which will affect their therapy or the confidentiality of their records (such as this condition which requires a practice monitor). Such notifications shall be signed by each patient prior to continuing or commencing treatment.

If the monitor quits or is otherwise no longer available, respondent shall not practice until a new monitor has been approved by the Board or its designee. Respondent shall pay all costs associated with this monitoring requirement. Failure to pay these costs shall be considered a violation of probation.

2. **Examination(s)**

Respondent shall take and pass, within 6 months of the effective date of this Decision, the California Jurisprudence and Professional Ethics Examination. It is respondent's responsibility to contact the Board in writing to make arrangements for such examination(s). Respondent shall pay the established examination fee(s).

If respondent fails such examination, respondent shall cease the practice of psychology until the re-examination has been successfully passed, as evidenced by written notice to respondent from the Board or its designee. Failure to pass the required examination no later than 6 months prior to the termination date of probation shall constitute a violation of probation.

3. Coursework

Respondent shall take and successfully complete not less than 12 hours of coursework each year of probation in the following area(s) Boundaries, Transference and Countertransference, Multiple Relationships, and Sexual Exploitation. Coursework must be preapproved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting the educational requirements. All costs of the coursework shall be paid by the respondent.

4. Ethics Course

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a course in laws and ethics as they relate to the practice of psychology. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and completed within one year from the effective date of this Decision. The cost associated with the law and ethics course shall be paid by the respondent.

5. Probation Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year. Failure to pay such costs shall be considered a violation of probation.

6. Obey All Laws

Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

7. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

8. Probation Compliance

Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned District Office of the Medical Board of California or other designated probation monitor. Respondent shall contact the assigned probation officer regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) complainants associated with the case; 2) Board members or members of its staff; or 3) persons serving the Board as expert evaluators.

9. Interview with Board or Its Designee

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

10. Changes of Employment

Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within 30 days of such change.

11. Tolling for Out-of-State Practice, Residence or In-State Non-Practice

In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing psychology in California, respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. Periods of

temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period.

12. Employment and Supervision of Trainees

If respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this probation.

13. Violation of Probation

If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

14. Completion of Probation

Upon successful completion of probation, respondent's license shall be fully restored.

This decision shall become effective on October 20, 2001.

Dated: September 20, 2001.

M. R. Greenberg
Martin R. Greenberg, Ph.D.
President
Board of Psychology

B

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Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against)	Case No. 183
RONALD L. MANN, Ph.D.)	
16070 Sunset Blvd., Suite 105)	
Pacific Palisades, California 90272)	<u>ACCUSATION</u>
Psychologist's License No. PSY 4625)	
Respondent.)	

The Complainant alleges:

PARTIES

1. Complainant, Thomas S. O'Connor, is the Executive Officer of the California Board of Psychology ("Board of Psychology" or "board") and brings this accusation solely in his official capacity.

2. At all times material, respondent Ronald L. Mann, Ph.D. ("respondent") has held Psychologist's License No. PSY 4625 which was issued to him by the board on or about June 30, 1976. Unless renewed, the license will expire on October 31, 2001.

//

JURISDICTION

3. This accusation is brought before the Board of Psychology, Department of Consumer Affairs, under the authority of the following sections of the California Business and Professions Code ("Code").

4. Section 2960 of the Business and Professions Code states in pertinent part that the Psychology Board may suspend, revoke, or place on probation a licensee for any of the following causes:

"(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under [chapter 6.6 of Division 2 of the Business and Professions Code].

"(j) Being grossly negligent in the practice of his or her profession.

". . . .

"(r) Repeated acts of negligence.

". . . ."

5. Title 16 California Code of Regulations section 1396.1 states, "It is recognized that a psychologist's effectiveness depends upon his or her ability to maintain sound interpersonal relations, and that temporary or more enduring problems in a psychologist's own personality may interfere with this ability and distort his or her appraisals of others. A psychologist shall not knowingly undertake any activity in which temporary or more enduring personal problems in the psychologist's personality integration may result in inferior professional services or harm to a patient or client. If a psychologist is already engaged in such activity when becoming aware of such personal problems, he or she shall seek competent professional assistance to determine whether services to the patient or client should be continued or terminated."

6. Business and Professions Code section 125.3 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before any board

1 within the California Department of Consumer Affairs, the board may request the
2 administrative law judge to direct a licensee found to have committed a violation or
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
4 investigation and enforcement of the case.

5 7. Business and Professions Code section 2962.6 provides that "[a]n
6 administrative disciplinary decision that imposes terms of probation may include, among
7 other things, a requirement that the licensee who is being placed on probation pay the
8 monetary costs associated with monitoring the probation."

9 FACTS

10 8. At all times relevant to this matter, respondent practiced as a
11 psychologist in the state of California.

12 9. On or about October 7, 1993, respondent undertook to care for and
13 treat J.L.,^{1/} at his professional offices at the Alhambra Psychotherapy Center at 718
14 Alhambra Boulevard, Sacramento, California 94301.

15 10. J.L. and her then-husband were having marital problems when they
16 began seeing a therapist for couples counselling in the fall of 1992.

17 11. After approximately one year of couples counselling, J.L. decided to
18 begin individual psychotherapy and selected respondent at random from the yellow pages
19 section of the telephone directory.

20 12. Respondent saw J.L. for approximately twenty-two visits, the last four
21 of which were two hour sessions.

22 13. On or about January 21, 1994, the first of the two hour sessions,
23 respondent asked J.L. if she ever felt attracted to him. When she responded, "I can't say
24 I'm not attracted to you," respondent advised her that they could not go out because the law
25 prohibited it. He told her that they would have to wait two years following therapy before
26

27 1. Initials are used to protect the privacy of the patient. The full name of the patient will be disclosed upon receipt of respondent's Request for Discovery.

1 they could see each other socially.

2 14. During the three subsequent sessions, respondent told J.L. that he was
3 checking with his colleagues to see if there was any way to get around the law so he could
4 see her socially, told her that if it were not for the professional relationship he could "pretty
5 much guarantee" that they would go out, told her he would feel ashamed if he were caught in
6 a relationship with her, and said that she could sue him if they were to have a relationship.

7 15. On or about February 11, 1994, J.L.'s final therapy session with
8 respondent, she advised respondent that she had told her husband that she was leaving him,
9 that she wished to terminate therapy with respondent, and that in two years she wanted to
10 start a relationship with him.

11 16. Respondent did not refer J.L. to another therapist for continued therapy
12 and did not discuss her continuing in therapy.

13 17. On or about February 20, 1994, J.L. left her husband and moved into
14 quarters close to respondent's office.

15 18. On or about March 26, 1994, J.L. wrote a letter to respondent in which
16 she told him that the way he had dealt with the issue of not becoming personally involved
17 with her "really hurt" her. In the letter, J.L. recounted their discussions during their last
18 two sessions during which respondent told her that he did not want to get personally involved
19 with her because she might sue him and he might lose his license and have to find a new
20 occupation.

21 19. In response to the letter, respondent telephoned J.L. and asked her to
22 come to his office to "smooth things out."

23 20. When they met, respondent discussed his personal life with J.L.,
24 including golf, school, and church. He told J.L. that he was "non-committal" about a
25 relationship with her but suggested that she might want to participate in the services of a
26 local church group with which he was involved.

27 21. In April 1994, J.L. began attending the church's services regularly with

1 the hope of running into respondent there.

2 22. During her second visit to the church, respondent was leading the
3 services. After the services, as respondent was saying good-bye to people at the door, J.L.
4 made contact with him.

5 23. In July 1994, J.L. took a walk with respondent and they discussed their
6 mutual attraction and waiting two years to act on it.

7 24. In August 1994, J.L. attended a week long annual church conference in
8 Los Angeles.

9 25. On the first day of the conference, J.L. saw respondent and told him
10 that she was suffering from severe back pain. Respondent told J.L. that he did "body work"
11 which is a form of massage or "energetic healing" through therapeutic touch.

12 26. Respondent took J.L. to his room where she lay down on his bed. He
13 had her remove her clothes down to her underwear and placed his hands on the painful part
14 of her back.

15 27. Respondent left J.L. on his bed while he went to dinner and continued
16 the massage when he returned. Respondent told J.L. "if you stay tonight, you can't tell
17 anyone" and offered to sleep on the floor. He told J.L. that he was "a little attracted to her"
18 and when she suggested that it was not just a little, he responded that he was trying to keep it
19 that way.

20 28. At approximately 9:00 p.m., J.L. returned to her own hotel room.

21 29. The following day, respondent and J.L. sat together during the lectures
22 and respondent walked J.L. back to her hotel room. Once in the room, he started kissing
23 her.

24 30. J.L. undressed down to her underwear, she and respondent got into the
25 bed, and respondent massaged her spinal area. They did not have sexual intercourse but
26 kissed and "petted."

27 31. Respondent discussed his conflict about what he wanted with J.L. and

1 told her he could fall in love with her.

2 32. In the afternoon on the third or fourth day of the conference,
3 respondent and J.L. went to respondent's room to take a nap. They undressed to their
4 underwear and respondent told J.L. she would feel better if she "came" and they masturbated
5 each other.

6 33. After this incident, respondent and J.L. discussed their relationship on
7 several occasions during the final few days of the conference. Respondent told J.L. that he
8 was fighting the urge to continue the relationship and by the end of the week he had turned
9 "cold."

10 34. Nonetheless, respondent offered to drive J.L. back to Sacramento from
11 the conference and she accepted. On the way back, respondent commented that there was "a
12 lot of sexual energy in the car." They discussed continuing the relationship without sexual
13 intimacy.

14 35. They arrived at J.L.'s home on the evening of August 27, 1994 and
15 respondent assisted J.L. with her luggage. Once inside her house, respondent started kissing
16 J.L. and had sexual intercourse with her. He asked for her phone number before he left that
17 evening.

18 36. The next day respondent told J.L. that he was doing fine as long as
19 they did not spend any time alone with each other. He telephoned J.L. several nights later,
20 was "very cold," and told J.L. that he did not want to have sex with anyone right then but
21 might want to in six months.

22 37. Thereafter, respondent told J.L. that they could meet in public places
23 and in September 1994 they met at the American River Bike Trail and in October 1994 had
24 dinner together in celebration of respondent's birthday.

25 38. Respondent suggested to J.L. that they have dinner together every
26 Friday. Shortly thereafter, respondent told J.L. that she was being too sexually provoking
27 and that he wanted to discontinue their Friday night dinners.

1 39. Respondent wrote a letter to J.L. dated November 1, 1994 in which he
2 wrote, among other things: "It was my impression that you would never accept my feelings
3 regarding the difficulty of our situation and would always press for more contact. Your will
4 is very strong and you are a very determined woman. I did want to spend time with you,
5 but when I would let myself get more emotionally involved, I did not like the direction
6 where we were going. I felt that you did not have my best interest at heart and that you
7 were willing to put me at great risk because of your own desires. Frankly, you scare me and
8 I do not feel it would be safe to have a relationship with you. . . . I am sorry for what has
9 happened. The circumstances were impossible for me to manage."

10 40. Respondent and J.L. continued to see each other sporadically through
11 the following year. On November 29, 1995, respondent wrote J.L. a letter in which he said
12 that, after speaking to a number of colleagues about the situation, he believed that "the right
13 thing to do [was] to keep [their] friendship and not become more involved." He went on, "It
14 is easier to see clearly when I am not in your presence. My personal needs and desires
15 become too stirred up because I feel pretty unfulfilled [sic] as you know. . . . I hope we can
16 maintain a friendship in some form. . . . I think the only way we can both get on with our
17 lives is to deal with the loss over this situation and move on."

18 41. J.L. was devastated by the letter. Respondent called her a week later
19 which only served to depress her more. When she received a Christmas card from
20 respondent, however, she warmed back up to him and returned to church services which she
21 had been avoiding for fear of running into him.

22 42. After three weeks with no contact from respondent, J.L. complained to
23 him that he was not paying attention to her. Respondent gave her a birthday present in
24 January 1996.

25 43. In May 1996, respondent telephoned J.L. and asked her if she would be
26 interested in going to the movies "as a friend." When they returned to respondent's house
27 after the movies, however, respondent started kissing J.L. and told her "I want to get to

1 know you better, but I want to have sex now."

2 44. Respondent and J.L. continued their relationship over the next five
3 months.

4 45. In November 1996, respondent and J.L. broke up and J.L. was
5 depressed and suicidal.

6 46. In April 1997, J.L. began psychotherapy with a licensed psychologist.
7 During the course of the therapy, J.L. decided that the relationship she had had with
8 respondent was inappropriate and sought legal action against him.

9 **FIRST CAUSE FOR DISCIPLINARY ACTION**

10 (Violation of Rule of Professional Conduct, Gross Negligence,
11 Repeated Negligent Acts)

12 47. Respondent is subject to disciplinary action pursuant to section 2960,
13 subsections (i) (violating rule of professional conduct), (j) (gross negligence), and (r)
14 (repeated negligent acts) and Title 16 California Code of Regulations section 1396.1
15 (psychologist's personal problems adversely affect treatment or harm patient) in that he
16 engaged in the conduct alleged in the second cause for disciplinary action and in that he
17 shared his own feelings with J.L. during her therapy, suggested the possibility of a sexual
18 relationship in the future, allowed J.L. to terminate therapy with the expectation of a future
19 sexual relationship with him, and did not assist J.L. in obtaining further psychological
20 services as more particularly alleged in paragraphs 8 through 46, above.

21 **SECOND CAUSE FOR DISCIPLINARY ACTION**

22 (Gross Negligence, Repeated Negligent Acts)

23 48. Respondent is subject to disciplinary action pursuant to section 2960,
24 subsections (j) (gross negligence) and (r) (repeated negligent acts) in that he engaged in the
25 conduct alleged in the first cause for disciplinary action and in that he initiated a sexual
26 relationship with J.L., a former patient, less than two years after the termination of therapy
27 as more particularly alleged in paragraphs 8 through 46, above.


1 WHEREFORE, complainant requests that a hearing be held on the matters
2 alleged above, and that following the hearing, the board issue a decision:

3 1. Suspending or revoking Psychology License No. PSY 4625 issued to
4 respondent Ronald L. Mann, Ph.D.;

5 2. Ordering respondent to pay the board the actual and reasonable costs of
6 the investigation and enforcement of this case and, if placed on probation, the costs of
7 probation monitoring; and

8 3. Taking such other and further action as the board deems necessary and
9 proper.

10 DATED: March 9, 2000


THOMAS S. O'CONNOR, Executive Officer
Board of Psychology

Complainant